

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Public Safety and Homeland Security Bureau Seeks	)	File No. 0005778484
Comment on Somerset County, Maine Request for	)	
Waiver to Operate Vehicular Repeater Unites on a	)	
Narrowband Telemetry Frequency.	)	
	)	

**COMMENTS OF THE UTILITIES TELECOM COUNCIL**

Pursuant to Section 1.405 of the Commission’s Rules, the Utilities Telecom Council (UTC)<sup>1</sup> hereby files its comments in opposition to the above-referenced application and waiver in response to the Commission’s *Public Notice*.<sup>2</sup> UTC opposes the waiver because the applicant has failed to show that it lacks available frequencies that it could use in the VHF 150-159 MHz band. UTC also opposes the use of frequencies that are currently reserved for telemetry purposes, because the use of these frequencies for Vehicular Repeater Systems (VRS) to support public safety voice communications will likely lead to interference to and from telemetry systems licensed to utility and critical infrastructure industry (CII) entities on adjacent channels to the frequency that the applicant proposes to use in the area.

In order to demonstrate that a waiver should be granted, the Commission’s rules require that an applicant for a waiver must show that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>3</sup>

---

<sup>1</sup> UTC is the global trade association for the telecommunications and information technology interests of electric, gas and water utilities and other CII, such as pipeline companies. See [www.utc.org](http://www.utc.org).

<sup>2</sup> *Public Safety and Homeland Security Bureau Seeks Comment on Somerset County, Maine Request for Waiver to Operate Vehicular Repeater Unites on a Narrowband Telemetry Frequency*, , Public Notice, DA 13-2396(rel. Dec. 16, 2013)(“*Public Notice*”).

<sup>3</sup> 47 C.F.R. §1.925(b)(3).

UTC submits that the applicant, Somerset County, Maine, has not shown that it has no reasonable alternative, despite its claims to the contrary. Specifically, it has not shown that there are no channels available in the 150-159 MHz band that would meet its needs. Instead, it claims that there are no other channels that are 4 MHz separated from another channel in the “current inventory” of channels licensed to Somerset.<sup>4</sup> Thus, it leaps to the conclusion that it must access the wireless telemetry channel at 173.210 MHz. However, it failed to consider whether Somerset could simply apply for any other channels in the 150-159 MHz band (i.e. not in the current inventory of Somerset’s frequencies) that are at least 2 MHz apart from each other. Thus, Somerset should demonstrate that there are no available channels with sufficient channel separation in the 150-159 MHz band, before it seeks a waiver to use channels in the 173 MHz band.<sup>5</sup>

In addition, UTC submits that the Commission is currently considering a rulemaking proceeding regarding the use of the six telemetry channels at 173 MHz for VRS.<sup>6</sup> UTC requests that the Commission defer any action on the instant waiver until a decision has been reached in that rulemaking. Alternatively, UTC requests that the Commission ensure that any waiver that is granted to Somerset be made conditional on the final decision in that rulemaking proceeding. As UTC explained in its comments in that rulemaking proceeding and on the underlying petition for rulemaking, there is a likelihood of interference to and from VRS voice communications and telemetry data communications on these channels.<sup>7</sup> In that regard, UTC notes that there are adjacent channel telemetry systems that could be

---

<sup>4</sup> Application of Somerset, Exhibit A at 2. (adding that the largest spacings between the County's uses are 3.0625 (above 150.775) and 2.8875 MHz (above 155.9025), so even considering only the County's use alone ... no proposed vehicular repeater frequency exists which would be at least 2 MHz from all spectrum currently in use countywide.)

<sup>5</sup> It is likely that there are available channels in the 150-159 MHz band, because Somerset is in a remote part of Maine as is illustrated by its population density overlay map. Application of Somerset at Exhibit A, Figure 1. (showing Somerset County with population density overlay).

<sup>6</sup> Amendment of Sections 90.20(d)(34) and 90.265 of the Commission's Rules to Facilitate the Use of Vehicular Repeater Units, *Order and Notice of Proposed Rulemaking*, PS Docket No. 13-229, RM-11635, 28 FCC Rcd. 13544 (2013)(NPRM).

<sup>7</sup> See Comments of UTC in PS Docket No. 13-229, RM-11635 (filed Dec. 31, 2013). See also Comments of UTC in RM-11635 (filed Nov. 4, 2011) and Reply Comments of UTC in RM-11635 (filed Nov. 18, 2011).

potentially affected by Somerset's proposed VRS operations, including a telemetry system operated by a utility and another one by AMTRAK.

Utilities and CII, such as railroads, cannot afford the risk of interference from VRS voice operations to their telemetry systems, due to the critical communications that are carried over these telemetry systems. Conversely, they do not want to cause interference to VRS operations by public safety either. Any such interference to or from VRS operations could have dangerous consequences. Moreover, UTC is concerned that the potential for interference cannot be sufficiently mitigated through frequency coordination, due to the mobile nature of VRS, as well as other factors. While UTC respects the need for public safety VRS operations, the Commission should not accommodate such use at the risk of causing interference to mission critical operations by utilities and other CII, as well as causing interference to public safety communications from telemetry operations. In addition and as explained in its rulemaking comments, UTC believes that technical solutions such as cross-banding, improved filtering and narrowbanding in the 150-159 MHz band may obviate the need for VRS operations on the 173 MHz telemetry channels.<sup>8</sup>

---

<sup>8</sup> See Comments of UTC in PS Docket No. 13-229, RM-11635 (filed Dec. 31, 2013).

## **CONCLUSION**

For all of these reasons, UTC respectfully requests that the Commission deny or defer Somerset's request for waiver.

Respectfully submitted,

**Utilities Telecom Council**

ss  
Brett Kilbourne  
Vice President and Deputy General Counsel  
Utilities Telecom Council  
1129 20<sup>th</sup> Street, NW  
Suite 350  
Washington, DC 20036  
202-872-0030

January 15, 2014